



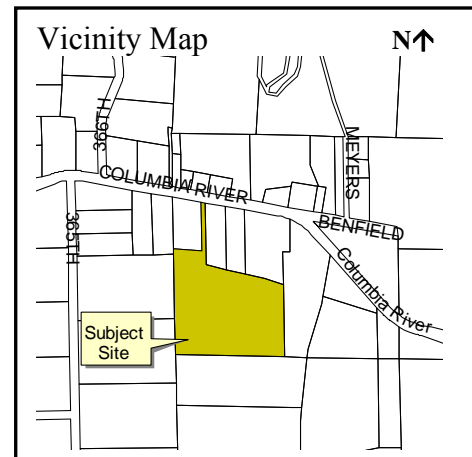
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## NOTICE OF DECISION

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This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

**Case File:** T2-04-052 & T2-07-005  
**Permit:** National Scenic Area Site Review & Minor Variance  
**Location:** 36720 E. Crown Point Highway  
TL 1800, Sec 35, T 1N, R 4E, W.M.  
Tax Account #R94435-1270  
**Applicant:** Nowell & Tracy Brill  
**Owner:** Nowell & Tracy Brill  
P.O. Box 268  
Corbett, OR 97019



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**Summary:** In T2-04-052, the property owners have requested a NSA Site Review to permit the following:

1. Legalize an existing 26 ft by 60 ft accessory structure used to house their pet horses, poultry & rabbits; and
2. Construct an addition to an existing single family dwelling to add a garage and living area; and
3. Demolish an existing 28 ft by 48 ft barn and construct a 48 ft by 48 ft residential accessory structure for storage of hay & orchard supplies, produce, tractor, implements, utility trailer and flatbed truck used on the subject property in the Gorge General Residential – 5 (GGR-5) zone.

In T2-07-005, the property owners have requested a Minor Variance to allow the construction of the new 48 ft by 48 ft barn within the 30 ft front yard setback.

**Decision:** Approved with conditions.

Unless appealed, this decision is effective Friday, November 16, 2007, at 4:30 PM.

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Issued by:

By: \_\_\_\_\_  
Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: Friday, November 2, 2007

Instrument Number for Recording Purposes: # 96115887

**Opportunity to Review the Record:** A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Lisa Estrin, Staff Planner at 503-988-3043 extension 22597.

**Opportunity to Appeal:** This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 38.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Gorge Commission until all local appeals are exhausted.

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Friday, November 16, 2007 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC):

*General Provisions* - MCC 38.0015 Definitions, MCC 38.0030 Existing Uses, MCC 38.0045 Review and Conditional Use Applications, and MCC 38.0560 Code Compliance and Applications

*Gorge General Residential* - MCC 38.3025(A)(2) GGR, Review Uses – Accessory Buildings, and MCC 38.3060 Dimensional Requirements

*Site Review Criteria* - MCC 38.7035 GMA Site Review Criteria, MCC 38.7045 GMA Cultural Resource Review Criteria, MCC 38.7055 GMA Wetland Review Criteria, MCC 38.7060 GMA Stream, Lake and Riparian Area Review Criteria, MCC 38.7065 GMA Wildlife Review Criteria, MCC 38.7070 GMA Rare Plant Review Criteria, MCC 38.7080 GMA Recreation Resource Review Criteria, and Landscape Setting: Rural Residential

*Variance Criteria*

MCC 38.7600 Variance Approval Criteria, and MCC 38.7605 Variance Classification

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.co.multnomah.or.us/landuse>.

### **Scope of Approval**

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **Pursuant to MCC 38.0690, this land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 38.0690 and 38.0700. Such a request must be made prior to the expiration date of the permit.**

## **Conditions of Approval**

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in brackets.

1. If, during construction, cultural or historic resources are uncovered, the property owner(s) shall immediately cease development activities and inform the Multnomah County Land Use Planning Division, Columbia River Gorge Commission, and the U.S. Forest Service of any discovery. [MCC 38.7050(H)]
2. Prior to building permit plan check, the property owners shall submit lighting details for all lights on the eastern elevation of Barn #2 and on the northern elevation of the dwelling and its additions. All lights on these elevations shall be directed downward, hooded and shielded. No lighting shall be installed on the western or eastern elevations of Barn #2 or the dwelling unless the property owners apply for and receive approval of an Expedited Review pursuant to MCC 38.1010(A)(9). [MCC 33.7035(B)(10)]
3. Within 30 days of this decision becoming final (by December 16, 2007) and prior to building permit sign-off, the applicant shall record the Notice of Decision (pages 1-3 of this decision and the Revised Site Plan (Exhibit A.35) with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and filed with the Land Use Planning Division, and a copy of the recorded document shall be submitted to the Land Use Planning Division. Recording shall be at the applicant's expense. **Failure to sign and record the Notice of Decision within the above 30 day time period shall void the decision.** [MCC 38.0670]
4. Prior to building plan check, the property owners shall amend the site plan to show three to five additional 10 – 12 ft Western Red Cedars on the west side of Barn #2. The cedars shall be spaced out in a similar fashion as the cedars on the north side of Barn #2. [MCC 38.7035(B)(1)]
5. Prior to building plan check, the property owners shall amend the site plan to show three, 8 -10 ft Western Red Cedars in line with the pump house. At least two cedars shall be planted north of the pump house and one between the pump house and the willow to help screen the dwelling during the late fall and winter months. [MCC 38.7035(B)(1)]
6. The proposed and conditioned plantings shall occur during this upcoming planting season through May 1, 2008 to give the maximum amount of time for the trees to grow before the 2 years are over and to help the buildings achieve visual subordination within this timeline. [MCC 38.7035(B)(26)]
7. The property owner(s) shall be responsible for the proper maintenance and survival of all existing vegetation, except nuisance species such as evergreen blackberry or knot weed. The existing and new tree cover shall be retained. If a tree dies in the future or becomes diseased and dies, the property owner shall replace the lost tree/vegetation within the next growing season with an appropriate evergreen tree for the location. [MCC 38.7035(A)(4) & MCC 38.7035(C)(3)(a).]
8. Prior to building plan check, the property owners shall change the color of the gutters on the north elevation to a dark earthtone as shown on Row A or B of the color chart. The downspouts may be copper provided they are not treated to retain the copper color and are allowed to patina naturally. [MCC 38.7035(B)(1)]
9. Within 60 days of use of the new 48 ft by 48 ft barn (Barn #2), the property owners shall begin removing the existing barn in the northwest corner of the property. Barn #2 is replacing this existing structure and to be in compliance with this decision, the building must be removed. Within 120 days of use, the structure shall be completely removed.

**Note:** Once this decision is final, application for building permits may be made with the City of Gresham. When ready to have building permits signed off, the applicant shall call the Staff Planner, Lisa Estrin, at (503) 988-3043 ext. 22597, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Gresham. Three (3) sets each of the site plan and building area are needed for building permit sign off.

**Notice to Mortgagee, Lien Holder, Vendor, or Seller:**

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

## ***Findings of Fact***

**FINDINGS:** Written findings are contained herein. The Multnomah County Code (MCC) criteria are in bold font. The applicants statements are identified below as ‘**Applicant:**’. Staff comments and analysis are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in italic.

### **Project Description**

**Applicant:** SUBJECT SITE: 7.86 acre Single Family Residence (SFR) with two barns, located on a flag lot with a 355’ flag pole driveway perpendicular to the Historic Columbia River Highway (HCRH). Property is used as SFR and farm.

1) Build a new horse barn, in SE corner of property, (already in existence, seeking approval through Planning Division).

- ▶ 2 - 12’ x 16’ stalls
- ▶ 12’ x 12’ tack room
- ▶ 12’ x 12’ grain and supplement room
- ▶ 12’ x 24’ area for rabbit hutches and poultry
- ▶ 12’ x 24’ area for grooming.

2) Replace an existing hay/orchard barn, in NW corner of property, with a similarly constructed hay/orchard barn.

- ▶ 48’ x 48’ open area for storage of Hay/Orchard supplies and produce. Also, for storage of tractor, implements, utility trailer and flatbed farm truck.

3) Build an addition onto the existing SFR.

- ▶ The current SFR is: 3 bedroom, 1 1/2 bath, living room, and combined kitchen/dining/laundry room.
- ▶ The addition to the house on the East side would be one bedroom, one bathroom, a dining room, an office and a family room.
- ▶ The addition to the house on the West side would be a mechanical/laundry room, and 3 car garage.
- ▶ In the current space two small bedrooms would be converted to one large bedroom and a hallway to the new addition, and the dining area would become an entryway on the South side of the house.
- ▶ The proposed SFR would be: 3 bedroom, 2 ½ bath, living room, family room, office/craft room, kitchen, dining, pantry, laundry/mechanical, and garage.

The following is a resubmission of my property application T2-04-052. Based on your suggestions I have made revisions to my original application.

The proposal for barn #2 (that will replace the existing hay/orchard barn on the NW corner of the property):

- To reduce any potential visual impact we have resized the proposal to 2304 sq. ft. less than current. See page 5 – 7 for comparable info.
- The proposed metal roof has been changed to an architectural composition shingle in dark grey/brown (matching other buildings). See page 15 for further description, also review previously submitted development materials for sample.
- The proposed front setback has been revised to 22’ 6”, placing it within the criteria for a “minor setback” under MCC 38.7605(B). Included in this packet you will find a NSA

application form and attached zoning requirements, signature list, and description of setback.

The proposal for the House Addition to increase the size of our Single Family Residence:

- We have done an in depth study of Single Family Residences for comparable size. Based on this we are submitting a proposal for an additional 3,848 sq. ft. of “usable space” to our existing home for a total of 5080 sq ft of “usable space”. The uses of this space are described on page 2 of the application. The comparables are on page 5-7. Included you will find several case files that support the information given in our application.
- We have replaced our original proposal of a two story structure with the majority of new development located at the terminus of the driveway, to a single story structure with 50% of new development located on the East side of existing structure and angling to the South, reducing further the potential for visual impact. See page 6.

**Clarification of use of property & proposed buildings submitted on February 2, 2005:**

We will be using these structures for our personal use, as part of our home, on our single family residential property.

The Horse barn is used for stabling for our horses, as well as storage and maintenance of the riding equipment (tack). We use the Hay barn for storage of the hay truck and farm equipment. Due to the poor construction and small size of this building we need to replace it. It will be used as continued storage for the hay truck; Horse trailer; farm equipment; tractor and implements; feed and bedding for the horses (our insurance does not allow for this storage to be in the same building as the animals); fencing supplies; jumps and training apparatus for the horses; materials for maintenance of the orchard, newly planted timber and vegetation; storage of the generator for use during loss of power (bad weather); etc.

**Revision to Application T2-04-052 submitted January 12, 2007**

The following is a resubmission of my property application T2-04-052. Based on your suggestions I have made revisions to my original application.

The proposal for barn #2 (that will replace the existing hay/orchard barn on the NW corner of the property):

- To reduce any potential visual impact we have resized the proposal to 2,304 sq.’, that is 48 sq’ less than current. See page 5-7 for comparable info.
- The proposed metal roof has been changed to an architectural composition shingle in dark grey/brown (matching other buildings). See page 15 for further description, also review previously submitted development materials for sample.
- The proposed front setback has been revised to 22’ 6”, placing it within the criteria for a “minor setback” under MC 38.7605(B). Included in this packet you will find a NSA application form and attached zoning requirements, signature list, and description of setback.

The proposal for the House Addition to increase the size of our Single Family Residence:

- We have done an in depth study of Single Family Residences for comparable size. Based on this we are submitting a proposal for an additional 3,848 sq’ of “usable space” to our existing home for a total of 5,080 sq’ of “usable space”. The uses of this space are described on page 2 of the application. The comparables are on page 5-7. Included you will find several case files that support the information given in our application.
- We have replaced our original proposal of a two story structure with the majority of new development located at the terminus of the driveway, to a single story structure with 50% of

new development located on the East side of existing structure and angling to the South, reducing further the potential for visual impact. See page 6.

I have included several new enclosures in this packet;

- 1) Resubmission of original property application
- 2) Minor variance application with associated attachments
- 3) Case files referenced in resubmitted property application
- 4) Revised site map
- 5) Revised elevation drawings of all structures, including floor plan for house.

#### **Minor Variance Request (T2-07-005)**

This request is for a reduction in the front setback from 30' to 22'6". It will apply to the proposed replacement of accessory structure in the NW corner of the property (Barn #2 on the application).

The current structure supports the fruit orchard and personal farming use on the property. It is in severe disrepair and must be replaced. The proposed structure will have the same use as the current structure. The current structure is 2,352' sq. X 33' high with silver metal roof. The proposed structure will be 2,304' sq. X 27' high and will utilize charcoal colored composite roofing as well as a Gorge Commission approved color scheme. The location is level from the North (front) property line to 71' directly South, it then begins an 8° slope that feeds into the well, used for irrigation, 38' further South (see attached cross-section view).

The minor variance request is made in order to keep all building construction on the level area of the property. The proposed structure will:

- 1) Reduced the height and reduce the visual mass of the structure while maintaining adequate usable space.
- 2) Avoid impacting the saturation zone for the existing well.
- 3) Reduce excavation.
- 4) Allow additional orchard planting on the previous barn site, as well as additional planting of larger trees along the Northern property line further reducing any potential visual impact.
- 5) Allow continued use of existing underground utilities and gravel drive.

The subject property is a flag lot; it is completely obscured from the KVA by terrain, vegetation and distance. It is the only property of its size in the neighborhood. Neighboring properties that adjoin the KVA are approximately 1 acre of level terrain and are residential/commercial use. It is the only property in the neighborhood that has an existing well in use. It is the only property with active farm, as well as residential, use.

This request does not change the usage for the property, it does not have any detrimental effect on the public welfare or the development of adjoining properties, it is not injurious to property in the vicinity, nor does it affect the Management Plan or establish a precedent for unzoned use.

**Staff:** Two buildings will be removed after the approval of this application. The existing 28 ft by 48 ft barn in the northwest corner of the property and a wood shed. The wood shed must be removed in order to construct the new 3 car attached garage. The existing 1,232 sq. ft single family dwelling will be increased in size to 5,093 sq. ft. The barn to be demolished will be replaced with a 48 ft by 48 ft accessory structure to house materials and equipment for the family pets and to maintain the family's 7.86 acres. This structure is proposed to be 22.5 ft from the front property line. The property owners have applied for a minor variance to reduce the front yard from 30 ft to 22.5 ft. Near the southern

property line, an existing 26 ft by 60 ft accessory structure has been built without permits. This building houses the family's pets (horses, poultry, rabbits) and is proposed to be legalized as part of this application.

## **Surrounding Land Uses**

**Applicant:** The surrounding neighborhood is part of the Corbett rural center. In the rural center, lot sizes along this segment of the Historic Columbia River Highway range from 0.14 to 2.69 acres. Single family residences with attached and detached garages, barns and other farm use outbuildings form the residential and farm use of surrounding private properties. Commercial uses include: A fire station located between the subject property and the KVA. A commercial laboratory that is located between the subject property and the KVA. The Corbett Market is located diagonally across the street from the Northern tip of the flag pole (driveway) on the subject property. A commercial recreational vehicle park is located adjacent to the property on the East. In the surrounding rural residential area, larger lots range from 2.71 to 5.22 acres.

### **1.00      *General Provisions***

#### **1.01      MCC 38.0015    Definitions**

**As used in MCC Chapter 38, unless otherwise noted, the following words and their derivations shall have the following meanings:**

##### **(P) (1) Parcel:**

**(a) Any unit of land, satisfying all applicable land division and zoning regulations in effect on the date of creation, created and separately described by a lawful sales contract, deed, partition map or plat, or subdivision plat;**

**(b) A unit of land shall not be considered a separate parcel simply because it:**

- 1. Is a unit of land created solely to establish a separate tax account;**
- 2. Lies in different counties;**
- 3. Lies in different sections or government lots;**
- 4. Lies in different zoning designations; or**
- 5. Is dissected by a public or private road.**

**Applicant:** See Exhibit 1. Current deed for property at 36720 East Historic Columbia River Highway.

**Staff:** Evidence in the record shows that the property was lawfully created and meets the Multnomah County definition of Parcel under MCC 38.0015(P)(1). A 1986 division creating the property was evaluated by Multnomah County and approved as an exempt minor partition (Exhibit B6.). An exempt minor partition was a type of land division listed in the Multnomah County code at the time. County approval of this division as an exempt minor partition serves as evidence that the property satisfied applicable land division requirements at the time.

Staff finds that based on the evidence in the record, the subject property is a parcel as the term is defined in the National Scenic Area.

#### **1.02      MCC 38.0030    Existing Uses**

**Except as otherwise provided below, existing uses may continue, notwithstanding the provisions of MCC 38.0000 through 38.0110, 38.2000 through 38.3295, and 38.7000 through 38.7085.**

**(A) Any use or structure existing on February 6, 1993 may continue so long as it is**



**used in the same manner and for the same purpose as on that date.**

**Staff:** The Brill's single family dwelling was permitted in October 1987. SEC 13-87 was issued approving the dwelling. The property at the time was zoned MUA-20 with an overlay of Significant Environmental Concern. The MUA-20 zoning district allowed one single family dwelling per parcel subject to meeting the dimensional setbacks. The house was permitted as a single family dwelling and continues to be utilized by the Brill family for that purpose.

The existing hay barn in the northwest corner of the property (Exhibit A.2) appears on the 1977 air photographs available to the County (Exhibit B.1). In addition, it can be seen in the 1986, 1998 and 2002 air photos available to the County (Exhibit B.2, B.3 & B.4). The air photo from 1997 shows the site in pasture. The well house is also viewable in the photograph southeast of the hay barn. In 1977, exempt farm structures were not required to obtain a permit prior to their construction. The building meets the past and present setbacks of 30 feet from the front property line, 10 feet from a side property line and 30 feet from the rear property line. The existing hay barn existed on the subject site on February 6, 1993 and continues to be utilized for the storage of hay and equipment used on the property. This barn will be removed after the construction of the new 48 ft by 48 ft accessory building.

1.03

**(C) Except as provided in (B) above, replacement or reestablishment of a use or structure discontinued for any reason for more than one year shall be subject to the regulations of MCC 38.0000 through 38.0110, 38.2000 through 38.3295, and 38.7000 through 38.7085. Except as otherwise provided, an existing use or structure may be replaced within one year of discontinuation if used for the same purpose at the same location. This includes replacing an existing mobile home with a framed residence.**

**(1) In kind replacement of an existing use or structure in the same location shall be subject only to compliance with standards for protection of scenic resources involving color, reflectivity, and landscaping.**

**(2) Replacement of an existing use or structure by the same type of use or structure in a different location or with a different size shall be subject to MCC 38.7000 through 38.7085 to minimize adverse effects on scenic, cultural, natural, and recreation resources.**

**Staff:** As discussed under MCC 38.0030(A) above, the existing dwelling was lawfully established on the site in 1987. The property owner is proposing to add a 3 car garage & laundry room on the west side of the existing dwelling and a master bedroom & bathroom, craft room/office, family room and dining room on the east side. The additions will be one-story in height. Pursuant to (2) above, the addition to the structure must minimize adverse effects on scenic, cultural, natural and recreational resources.

The replacement of the existing 28 ft by 48 ft hay barn with a new 48 ft by 48 ft accessory building is permissible as specified under (C) "...an existing use or structure may be replaced within one year of discontinuation if used for the same purpose at the same location." The replacement structure will need to minimize adverse effects on scenic, cultural, natural, and recreation resources.

1.04

#### **MCC 38.0045 Review and Conditional Use Applications**

**(A) The following additional information shall be submitted for all review and conditional uses:**

**(1) A list of Key Viewing Areas from which the proposed use would be visible.**

**(2) A map of the project area. The map shall be drawn to scale. The scale of the map shall be large enough to allow the reviewing agency to determine the location and extent of the proposed use and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail. If a parcel is very large, the map does not have to show the entire parcel. Rather, it may show only those portions of the parcel affected by the proposed use. The map shall include the following elements:**

- (a) North arrow;**
- (b) Map scale;**
- (c) Boundaries, dimensions, and size of the subject parcel;**
- (d) Significant terrain features or landforms;**
- (e) Groupings and species of trees and other vegetation on the parcel;**
- (f) Location and species of vegetation that would be removed or planted;**
- (g) Bodies of water and watercourses;**
- (h) Location and width of existing and proposed roads, driveways, and trails;**
- (i) Location and size of existing and proposed structures;**
- (j) Location of existing and proposed services, including wells or other water supplies, sewage disposal systems, power and telephone poles and lines, and outdoor lighting; and**
- (k) Location and depth of all proposed grading and ditching.**
- (l) Proposed uses in streams, ponds, lakes, and their buffer zones shall include the exact boundary of the ordinary high water-mark or normal pool elevation and the prescribed buffer zone; and a description of actions that would alter or destroy the stream, pond, lake, or riparian area.**
- (m) Proposed uses in wetlands or wetlands buffer zones shall include the exact boundary of the wetland and the wetlands buffer zone; and a description of actions that would alter or destroy the wetland.**
- (n) Proposed uses on parcels contiguous to established recreation sites shall provide a buffer between the proposed use and recreation site sufficient to insure that the proposed use will not detract from the use or enjoyment of the recreation site.**
- (o) New uses located in, or providing recreation river access to, the Columbia River or its fish bearing tributaries shall include the following supplemental information:**

**(B) Supplemental information will be required for:**

- (1) Forest practices in the Special Management Area,**
- (2) Production and development of mineral resources in the General Management Area,**
- (3) Proposed uses visible from Key Viewing Areas, and**
- (4) Proposed uses located near cultural resources, wetlands, streams, ponds, lakes, riparian areas, sensitive wildlife habitat, and sensitive plant sites.**

**Applicant:**

**KEY VIEWING AREA (KVA):**

Although there is no clear line of sight unobstructed by vegetation or buildings between KVA and the proposed use it appears part of the proposed use may be “topographically visible” from HCRH. The term “topographically visible” is understood to mean if all vegetation and

buildings were removed, the site would be visible.

**MAP OF PROJECT AREA:**

See Exhibit 2. 1:100 scale map.

**38.0045A.1-o ARE NOT APPLICABLE:**

- l) Property has no streams, ponds or lakes.
- m) Property has no wetlands.
- n) Property has no contiguous recreation sites.
- o) Property is not adjacent to any river. There is no river access.

**38.0045B.1, 2 & 4 ARE NOT APPLICABLE:**

- 1) Property is not forested.
- 2) Property has no mineral resources or development.
- 4) Property is not located near cultural resources, wetlands, streams, ponds, lakes, riparian areas, sensitive wildlife habitat, or sensitive plant sites.

**PROPOSED USES VISIBLE FROM KEY VIEWING AREAS:**

Continued use of existing SFR and existing barns.

**Staff:** The applicant has provided the required information on various exhibits listed under "A" below. *This criterion has been met.*

1.05 **Type II Case Procedures**

**MCC 38.0530(B): ...Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision...**

**Staff:** The NSA Site Review application, T2-04-052, was submitted June 8, 2004 and was deemed complete as of December 21, 2004. An "Opportunity to Comment" notice was mailed on January 12, 2005 to all properties within 750 feet of the subject property and to various Gorge Agencies and Indian Tribes in compliance with MCC 38.0530. Written comments were received from the US Forest Service (USFS) Columbia River Gorge Commission Staff, ODOT and the Friends of the Columbia Gorge (Exhibit C.1, C.2, C.3, C.4 & C.5). The USFS comments address the Cultural Review Criteria listed at MCC 38.7045. Gorge Commission Staff, Friends and ODOT comments are related to various approval criteria.

This NSA Site Review application was made complete in 2004 and put on hold by the property owners after concerns were raised by Planning Staff about the initial size of Barn #2 and the proposed size of the dwelling after a two story addition. In 2005, the County updated its land use ordinance to reflect updates to the Management Plan. These changes altered the total square footage allowed for accessory structures on a residential zoned property. Since the application was made complete prior to these changes, the property owners are entitled to have their NSA Site Review application reviewed utilizing the obsolete code criteria.

The Minor Variance application, T2-07-005 was submitted on January 12, 2007 and was deemed complete on July 11, 2007. An "Opportunity to Comment" notice was mailed on August 29, 2007 to all properties within 750 feet of the subject property and to various Gorge Agencies and Indian Tribes in compliance with MCC 38.0530. Written comments were received from the USFS, Oregon Fish & Wildlife and the Friends of the Columbia Gorge

(Exhibit C.6, C.7 & C.8). The USFS comments address the Cultural Review Criteria listed at MCC 38.7045. Oregon Fish & Wildlife comments discussed the maintenance of existing mature trees, use of native trees and being sensitive during nesting season. The Friends comments discuss various code criteria.

1.06 **Proof of Ownership**

**MCC 38.0550 Initiation of Action**

**Except as provided in MCC 38.0760, Type I – IV applications may only be initiated by written consent of the owner of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.**

**Staff:** The proposed project is located on Tax Lot 1800, Section 35BA, Township: 1 North, Range: 4 East. Assessment & Taxation records show that the land is owned by Nowell & Tracy Brill (Exhibit B.5). The property owners are representing themselves as the applicant for the project submittal. *This criterion has been met.*

1.07 **MCC 38.0560 Code compliance and applications.**

**The County shall not approve any application for a permit or other approval, including building permit applications, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County. A permit or other approval, including building permit applications, may be authorized if it results in the parcel coming into full compliance with all applicable provisions of the Multnomah County Code.**

**Applicant:** Current Buildings on Property Include:

- 1) **Horse Barn** (new building, located in SE corner of property; part of application)
- 2) **Hay and Orchard Barn** (pre-existing, built approx. 1960's, located in NW corner of property; will be removed as part of replacement barn construction)
- 3) **Single Family Residential Structure** (pre-existing, built approx. 1987; proposing addition)
- 4) **Pump house** for well (pre-existing, built approx. 1960's, located South of hay barn, used for irrigation)
- 5) **Wood Shed** (pre-existing, built approx. 1987, located West of house; will be removed as part of house addition)

**Staff:** The existing accessory structure for the housing of pets (Barn #1) was constructed without first obtaining the necessary permits from the County. This application corrects that defect.

2.00 ***Gorge General Residential***

2.01 **MCC 38.3025 Review Uses**

**(A) The following uses may be allowed on lands designated GGR, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:**

**(2) Buildings exceeding 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.**

**Staff:** This application is requesting approval of an existing 26 ft by 60 ft accessory structure for the housing of the property owner's pets (horses, poultry & rabbits). Though horses can be

considered livestock, an *agricultural structure* is “a structure located on a farm or ranch and used in the operation...” MCC 38.0015(A)(6) defines an *Agricultural Use* as “The current employment of land for the primary purpose of obtaining a profit in money ....” The subject site is not currently enrolled in the County’s Farm Deferral Tax Program. The owners have indicated that the property is used “for our personal use, as part of our home, on our single family residential property”. The proposed structure is accessory to the existing single family dwelling. While the applicant’s statements label the structures as *barns*, they are actually accessory structures. The term *barn* is a colloquial term applied to outbuildings in the rural areas. *This criterion has been met.*

## 2.03 **MCC 38.3060 Dimensional Requirements**

### **(C) Minimum Yard Dimensions – Feet**

<b>Front</b>	<b>Side</b>	<b>Street Side</b>	<b>Rear</b>
<b>30</b>	<b>10</b>	<b>30</b>	<b>30</b>

**Maximum Structure Height – 35 feet**

**Minimum Front Lot Line Length – 50 feet.**

**(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.**

### **Applicant:**

- 1) **Barn #1:** Exceeds all minimum requirements for property line dimensions listed above.
- 2) **Barn #2:** Exceeds all minimum requirements for property line dimensions listed above except front setback. We are requesting minor variance for front setback (22’ 6”). See Variance Application.
- 3) **House addition:** Exceeds all minimum requirements for property line dimensions listed above.

**Staff:** Barn #1 is 50 ft from the rear property line, 200 feet from the east property line, 381 feet from the west property line and approximately 351 ft from the front property line (Exhibit A.35). Barn #1 is 14 feet high (Exhibit A.9).

Barn #2 is shown on the site plan with a 22.5 ft setback to the front property line. The applicant has filed for a minor variance to the front yard setback. The criteria for a minor variance have been met as discussed under Findings 4.01 through 4.02. Barn #2 is 70 ft from the west side property line, 71 ft from the east side property line and approximately 538 ft from the rear property line (Exhibit A.35). Barn #2 will be 27 ft tall (Exhibit A.31).

House Addition: The applicant’s site plan shows 44 ft to the other half of the front property line, 144 ft from the west side property line, 344 to the east side property line, and 366 ft to the rear property line. The ridgeline for the existing dwelling and proposed additions will be at 18 ft tall (Exhibit A.24)

The Historic Columbia River Highway is under the jurisdiction of ODOT. No additional right of way was requested. *These criteria have been met.*

## 3.00 **Site Review**

### 3.01 **MCC 38.7035 GMA Scenic Review Criteria**

**The following scenic review standards shall apply to all Review and Conditional Uses in the General Management Area of the Columbia River Gorge National Scenic Area:**

**(A) All Review Uses and Conditional Uses:**

**(1) New buildings and roads shall be sited and designed to retain the existing topography and reduce necessary grading to the maximum extent practicable.**

**Applicant:**

1) **Barn #1:** New **Horse Barn** located in a previously existing level clearing in wooded area at the base of slope in SE corner of property. Though building is not visible to the KVA due to ascending slope, additional fir trees were planted along slope on North and West side (key viewing side). Construction required digging post holes for upright poles for structural support. Site is accessed by previously existing dirt road, partially improved with gravel.

2) **Barn #2:** Replace existing **Orchard/Hay Barn** located on level grass yard (currently maintained as lawn). 5-8' Cedars were planted every 24" along length driveway and 3' cedars were planted the length of the Northern property line every 24' from East to West to reduce potential for visual impact. New construction will require digging post holes for upright poles for structural support. Site is accessed by previously existing gravel driveway.

3) **House Addition:** Existing **House and Addition** is/will be located on level surface, surrounded by lawn that is landscaped with a cluster of 14' Spruce trees to North East of house and a row of 14' Cedars planted along Northern property line every 24" East to West, eliminating potential visibility from KVA. New construction is proposed on existing level parking area to the West and level lawn to the East of existing SFR, all overrun of foundation will be backfilled to reduce grading. Site is accessed by previously existing gravel driveway.

**Staff:** The two barns utilize pole barn construction techniques to limit the amount of grading required for construction. The slope in the area of Barn #1 is approximately 12%. The terrain in the area of Barn #1 is approximately 4 to 5%. The terrain in the area of the dwelling is 3%. The additions will be constructed on grade with ground disturbance limited to the building footprint. With the terrain being relatively flat in the area of the dwelling and Barn #2, the applicant has minimized the amount of grading for their construction. The use of pole barn construction minimized the amount of grading required to construct Barn #1 to drilling of the holes to place the poles. *This criterion has been met.*

3.02

**(2) New buildings shall be generally consistent with the height and size of existing nearby development.**

**Applicant:**

1) **Barn #1** (Horse Barn): 1440 sq ft; the proposed barn is mid-sized; the maximum height is 14' from the lowest grade to the highest roofline. It would not be the largest barn within ¼ - mile of the subject parcel and falls within the range of barn's listed below. See Table #2.

2) **Barn #2** (Hay/Orchard Barn):

2304 sq ft; the proposed replacement barn is mid-size, it will be smaller than existing barn, the maximum height is 27 ft from the lowest grade to the highest roofline. It would not be the largest barn within ¼ - mile of the subject parcel and falls within the range of barn's listed below. It is the same size as building approved in T2-05-120. See Table #2.

3) **House Addition:**

5080 sq ft; the proposed house addition is upper mid-size. It is for a one story Single Family Residence with an attached garage. The main floor is 3387 sq. ft.; the garage is 1693 sq. ft.

The maximum height of the proposed building is 18' from the lowest grade to the highest roofline. It would not be the largest SFR within the ¼ - mile of the subject parcel and falls within the range of SFR's listed below. See Table #1.

The ¼-mile standard of similar nearby buildings for this size comparison analysis was used to generate the two tables below. These tables represent the entire range of similar buildings within this area. Only properties listed as Single Family Residence (SFR) were included on Table #1. The same properties in Table #1 were used to located barns and outbuildings for Table #2. Commercial Property, Manufactured Homes, and undeveloped properties are not included in either list, though this would have given a greater number of comparisons that are "above" the proposed structures. There are 57 SFR's and 35 Barn/Outbuildings that fit this description within ¼ - mile of the subject parcel. (reference T2-06-058 for staff approval of similar size comparison analysis).

The total square footage of "usable space" calculated for the SFR's in Table #1 includes basements, covered porches/decks, and attached garage (reference: T2-04-007 page 20, and T2-06-058 page 10). The data on square footage of these properties was obtained from www.portlandmaps.com's "assessment" page for each property.

TABLE#1 SFR'S (Subject property is highlighted showing *current* and **proposed** square footage)

#	SITE ADDRESS	SQ. FT.	#	SITE ADDRESS	SQ. FT.
1	1700 ne Meyers Ln	6706	30	1252 NE Evans Rd	2940
2	1740 NE Meyers Ln	6284	31	36421 NE HCRH	2928
3	710 NE 365 <sup>th</sup>	5110	32	1000 NE Evans Rd	2898
	<b>36720 E HCRH</b>	<b>5080</b>	33	36731 E. HCRH	2892
4	931 NE Rohrbach	4749	34	1040 NE 365 <sup>th</sup>	2877
5	36225 E HCRH	4644	35	36817 E HCRH	2876
6	1640 NE 366 <sup>th</sup>	4572	36	1710 NE Corbett Hill Rd	2836
7	36610 E HCRH	4160	37	623 NE 365 <sup>th</sup>	2812
8	36710 E HCRH	4154	38	1000 NE Rohrbach Rd	2800
9	1520 NE 366 <sup>th</sup>	4080	39	630 NE 365 <sup>th</sup>	2564
10	1010 NE 365 <sup>th</sup>	4071	40	36620 E HCRH	2608
11	1740 NE 366 <sup>th</sup>	3856	41	527 NE 365 <sup>th</sup>	2564
12	1619 NE 366 <sup>th</sup>	3611	42	1628 NE Corbett Hill Rd	2468
13	739 NE 365 <sup>th</sup>	3597	43	645 NE Rohrbach Rd	2420
14	1430 NE Meyers Ln	3559	44	522 NE 365 <sup>th</sup>	2389
15	37201 NE Benfield Loop	3507	45	1515 NE Meyers Ln	2366
16	1048 NE 365 <sup>th</sup>	3496	46	1420 NE 366 <sup>th</sup>	2188
17	1230 NE Evans Rd	3484	47	800 NE Evans Rd	2084
18	36723 E HCRH	3324	48	820 365 <sup>th</sup>	2008

19	603 NE Rohrbach Rd	3279	49	36511 E HCRH	1956
20	1621 NE 366 <sup>th</sup>	3264	50	720 NE Rohrbach Rd	1721
21	36333 E HCRH	3178	51	36300 E HCRH	1716
22	37246 E HCRH	3148	52	1440 NE 366 <sup>th</sup>	1704
23	1731 NE 366 <sup>th</sup>	3134	53	36400 E HCRH	1686
24	1021 NE 365 <sup>th</sup>	3084	54	37257 NE Benfield Loop	1609
25	36731 E HCRH	3084	55	430 NE 365 <sup>th</sup>	1604
26	1734 NE 366 <sup>th</sup>	3080	56	1400 NE Meyers Ln	1213
27	1025 NE 365 <sup>th</sup>	3070		<i>36720 E HCRH</i>	<i>1232</i>
28	36830 E HCRH	2996	57	37100 E HCRH	1148
29	700 NE Rohrbach Rd	2968			

The size of the proposed SFR is larger than many SFR's within ¼ - mile from the subject parcel. With this in mind we have revised the appearance of the proposed structure from a two story structure with the majority of new development located at the terminus of the driveway, to a single story structure with 50% of new development located on the East side of existing structure and angling to the South, further decreasing potential for visual impact.

Recently, the decision in Case File T2-06-058 addresses a Hearing Officer's interpretation of the guideline for development in this area under MCC 38.7035 (A)(2) (referencing Case File T2-05-095 and T2-04-007). The staff review of Case File T2-06-058 concurred with the above Hearing Officer's interpretation, noting that the proposed development in T2-06-058 was not "above" the range of similar structures in the area. Based on this the staff approved the size of this proposed SFR. My proposed SFR would not be "above" the largest SFR within the ¼ mile standard and fall s inside the entire range of SFR's listed, I believe it complies with the aforementioned Hearings Officer's interpretations of the guideline for development in this area under MCC 38.7035(A)(2). I also believe that the standards used to meet staff approval in T2-06-058 have been satisfactorily met here.

**Table #2 Barn/Outbuildings** (Subject property is highlighted showing *current* and **proposed** square footage for both barns.)

#	SITE ADDRESS	SQ. FT.	#	SITE ADDRESS	SQ. FT.
1	1000 NE Evans Rd	2898	18	630 NE 365 <sup>th</sup>	1152
1.a	37201 NE Benfield Loop	2852	19	36817 E HCRH	324
					324
					1120
2	700 NE Rohrbach	2750	20	1021 NE 365 <sup>th</sup>	1120
3	1040 NE 365 <sup>th</sup>	2400	21	1230 NE 365 <sup>th</sup>	1080
4	1430 NE Meyers Ln	2304	22	36421 E HCRH	1020
	<b>36720 E HCRH</b>		23	1515 NE Meyers Ln	960



	<b>Barn #1</b>	<b>1440</b>			
	<b>Barn #2</b>	<b>2304</b>			
	<i>Current Barn to be demo'd</i>	2352			
5	522 NE Rohrbach	2112	24	37100 NE Benfield Loop	880
6	1048 NE 365 <sup>th</sup>	1872	25	527 NE 365 <sup>th</sup>	864
7	NE Benfield Loop	1800	26	36400 E HCRH	864
8	1230 NE Evans	1728	27	1000 NE Evans Rd	864
9	1025 NE 365 <sup>th</sup>	1680	28	36377 E HCRH	624
10	720 NE Rohrbach	1576 1164	29	1700 NE Meyers Ln	600
11	623 NE 365 <sup>th</sup>	1400 1120	30	645 NE Rohrbach	600
12	820 NE 365 <sup>th</sup>	1400 864	31	931 NE Rohrbach Rd	576 144
13	N. Benfield Loop	1286	32	603 NE Rohrbach Rd	472
14	430 NE 365 <sup>th</sup>	1280	33	37257 NE Benfield Loop	288 384
15	36345 E HCRH	1200	34	36723 E HCRH	280
16	36710 E HCRH	1200 396	35	1010 NE 365 <sup>th</sup>	200
17	739 NE 365 <sup>th</sup>	1183			

**Staff:** The visible mass of the proposed single-story dwelling is 5,093 sq ft (Exhibit A.23 & A.24). Visible mass includes all enclosed and covered portions of the dwelling that are either above grade or daylight as in a daylight basement. The above criteria require that the general scale (height, dimensions and visible mass) of the proposed dwelling be compatible with similar buildings (i.e. dwellings) within a ¼ mile. The applicant has submitted the above information to support that the additions to the proposed dwelling will result in a dwelling that falls within compatible building size. Staff has also looked at Assessment & Taxation data to compare building size (Exhibit B.7). In order to review visible mass, staff did not add uncovered decks to building size or basements that may not be day-lighted. Without photographic evidence by the property owners, staff was unable to determine that the dwellings at 1700 & 1740 NE Meyers Lane have daylight basements, thereby reducing their building sizes below 5000 sq ft. Therefore, these two structures are not considered as comparable sized structures. The dwelling at 710 NE 365<sup>th</sup> has daylight basements and has a visible mass of 5,110 sq. ft. and is located within the ¼ mile distance. The proposed home does not exceed the range of existing dwellings in the area. *The proposed dwelling is generally compatible with development in the area.*

Barn #2 is a replacement of an existing larger accessory structure. Pursuant to MCC 38.0030(B), its replacement is permitted provided it is visually subordinate and it does not

impact cultural, recreational or wildlife resources.

Barn #1 has a visible mass of 1,560 sq ft. There are over eight accessory structures significantly larger in size than the proposed building. These eight structures range in size from 2,852 to 1,752 sq ft (Exhibit B.7). The proposed accessory structure is generally consistent in size with other accessory buildings in the area. *This criterion has been met.*

- 3.03                    **(3) New vehicular access points to the Scenic Travel Corridors shall be limited to the maximum extent practicable, and access consolidation required where feasible.**

**Applicant:** Access will be retained from the Historic Columbia River Highway without change.

**Staff:** The property accesses the Highway via an existing driveway. No changes are proposed. *This criterion has been met.*

- 3.04                    **(4) Project applicants shall be responsible for the proper maintenance and survival of any required vegetation.**

**Applicant:** Additional vegetation will be maintained through appropriate watering (using sprinklers attached to surface hose lines), organic mulching, and fertilization.

**Staff:** A condition of approval has been included requiring the maintenance and replacement of vegetation used to screen the proposed structures.

- 3.05                    **(5) For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.**

**Applicant:** See Exhibit #3: landscape map.

**Staff:** The applicant has submitted the required information to determine whether the proposed development is compatible with its landscape setting of rural residential.

- 3.06                    **(B) All Review Uses and Conditional Uses visible from Key Viewing Areas:**

**(1) Size, height, shape, color, reflectivity, landscaping, siting or other aspects of proposed development shall be evaluated to ensure that such development is visually subordinate to its setting as seen from Key Viewing Areas.**

**Applicant:** 1) **Barn #1:** See Exhibit #4: development materials

2) **Barn #2:** See Exhibit #5: development materials. Note: change in roofing material as described on page 14 of this document.

3) **House Addition:** See Exhibit #6: development materials

**Staff:** Barn #1 is 26 ft wide by 60 ft long by 14 ft high. The roof of Barn #1 is corrugated tin roof and the siding is T1-11 (Exhibit A.9). Topographically, Barn #1 is screened from the Highway by a forty foot rise in elevation. In addition, the property owners have planted a mix of alder, oak and fir around the structure to screen it from surrounding properties. *As it exists, the building is visually subordinate due to topography and existing vegetation.*

Barn # 2 will be 48 ft wide by 48 ft long by 27 ft high. The barn will have a black with brown specks (Black Walnut) composition roofing and T1-11 wood siding (Exhibit A.8) No windows will be installed on the north and western facing elevations of the building. The south elevation which is screened from any Key Viewing Area will have three windows which are 5 ft wide by 3 ft high each. The east facing elevation has two 10 ft wide by 12 ft high garage doors and one 10 ft wide by 14 ft high garage door and a single man-door. The three garage doors will be wood in the style of old barn doors. The man-door will be painted to match the

building. The proposed color of the barn is a dark green (A4 or A5). The property owners will plant six, 10 – 12 ft high cedar trees near the northern side of Barn #2. In addition, the eastern elevation is screened by an existing arborvitae hedge that runs the length of the eastern edge of the driveway for 354 ft (Exhibit A.36). The western elevation is topographically visible from approximately .25 miles. The property owner has indicated that their orchard will be extended northward between Barn #2 and the western side property line. Fruit trees are deciduous and will only provide screening during the spring, summer and a portion of the fall. The addition of three cedars spaced along the western elevation will break up and screen the building during late fall and winter and add screening to the spring & summer months. *As conditioned, Barn #2 will achieve visual subordination.*

The addition to the house will add 3,861 sq. ft to the existing 1,232 sq ft for a total dwelling size of 5,093 sq ft. The dwelling will remain a single-story and will be a maximum of 18 ft from foundation to roof ridgeline. The house will be stained a dark brown (B-15 on the Color Chart). The roof will be black with brown specks (Black Walnut) composition roofing and the dwelling will be sided with bevel cedar siding. The northern elevation facing the Historic Highway has approximately 15 percent of its elevation in glass. This elevation also has a two-car garage door and a single car garage door. These doors will be wood and painted the same color as the dwelling. The trim color will be the same as for the dwelling (B-15 Color Chart). The property owner has indicated that the gutters will be an off-white color with copper downspouts. The windows will be white vinyl to match existing. While off-white gutters are acceptable on the south elevation, they will not help the building achieve visual subordination on the north elevation. Gutter materials come in many colors. It is feasible to utilize brown gutters on the north elevation. A condition of approval has been included requiring that the gutters be a dark earthtone as shown on Row A or B of the color chart. The downspouts may be copper provided they are not treated to retain the copper color and are allowed to patina naturally. The use of white vinyl windows is acceptable, due to the portion of each window that utilizes the vinyl is quite small. In addition, the windows are located near the middle of the elevation and the screening vegetation will readily block it within two years.

The dwelling is topographically visible from the Historic Highway. The property owners have planted cedars to the north of the dwelling, arborvitae along the driveway and fir & oaks along the east property line to help achieve visual subordination from the north and northeast. A fruit orchard is planted to the west. While the orchard screens the dwelling during the spring, summer and early fall, it provides no screening during late fall and winter. The addition of three evergreen 10-12 ft trees in line with the pump house would screen the dwelling towards the west from the Historic Highway. *As conditioned, the dwelling and its addition will achieve visual subordination.*

3.07

**(2) The extent and type of conditions applied to a proposed development to achieve visual subordination should be proportionate to its potential visual impacts as seen from Key Viewing Areas. Primary factors influencing the degree of potential visual impact include: the amount of area of the building site exposed to Key Viewing Areas, the degree of existing vegetation providing screening, the distance from the building site to the Key Viewing Areas it is visible from, the number of Key Viewing Areas it is visible from, and the linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads). Written reports on determination of visual subordination and final conditions of approval shall include findings addressing each of these factors.**

**Applicant:** 1) Barn #1 (Horse Barn):

Located 736 ft from KVA, HCRH; with no portion of the building visible from the KVA due to slope of hill to the North, as well existing vegetation has been supplemented with 5-6 ft fir trees to improve screening from all sides.

**2) Barn #2 (Hay/Orchard Barn):**

Located 319 ft from KVA, HCRH; existing Barn is completely screened by vegetation and construction on property directly North. To prevent possibility of exposure to KVA to the North 3' cedar trees are planted, on subject property, along the property line every 24' from the driveway on the East to the property line on the West. To prevent possibility of exposure to KVA to the East 5 ft Cedars were planted every 24" along length driveway.

**3) House Addition:** Located 415 ft from KVA, HCRH; existing and proposed SFR is completely screened by vegetation and construction on property directly North. To prevent possibility of exposure to KVA 14 ft cedars are planted on subject property, every 24" from the driveway to the West along property line to edge of fire department property line to East. Additionally, 5' – 8' Cedars were planted every 24" along length driveway.

**Staff:** The subject property has a 40 ft elevation change from north property line down to the south property line. Barn #1 is screened topographically from the Historic Highway and has been surrounded by plantings of alder & fir to screen it further. It is not visible from any Key Viewing Areas. Barn #2 is topographically visible from the Historic Highway either partially (top 5 ft visual) or fully. Existing vegetation screens the building from the east. The applicants will be adding 10 to 12' cedar trees to screen the building from the north and a portion of the west. Staff has imposed a condition that 3 additional cedar trees be added west of Barn #2 to provide screening during the late fall and winter months. The dwelling has been screened from the Highway by planted vegetation to the north and northeast. To the west, topographically the dwelling is visible. Additional vegetation is needed to screen the building to the west. A condition of approval has been included requiring the planting of evergreen trees to the west of the dwelling as needed to achieve visual subordination.

3.08

**(3) Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.**

**Applicant:** 1) **Barn #1 (Horse Barn):** Distance from KVA and slope of hill create 100% screening of this structure.

2) **Barn #2 (Hay/Orchard Barn):** Distance from KVA, proposed vegetation, and visually subordinate materials will reduce the visibility of this structure (as well the Barn is not visible from KVA due to existing development and landscaping on property to the North). This brings it into greater compliance with screening recommendations than the existing barn. With continued growth of cedars Barn will be 100% screened from KVA.

3) **House Addition:** Distance from KVA, existing vegetation, and visually subordinate materials will eliminate the visibility of this structure (as well the House is not visible from KVA due to existing development and landscaping on property to the North). It is currently 100% screened from KVA. New construction will expose <10% of structure to HCRH.

**Staff:** All buildings are able to achieve visual subordination through the use of topography and vegetation (existing and proposed). A few additional evergreens will reduce any potential visual effects from adjacent properties and the Key Viewing Areas. *This criterion has been met.*

3.09                   **(4) For all buildings, roads or mining and associated activities proposed on lands visible from Key Viewing Areas, the following supplemental site plan information shall be submitted in addition to the site plan requirements in MCC 38.0045 (A) (2) and 38.7035 (A) (5) for mining and associated activities:**

**(a) For buildings, a description of the proposed building(s)' height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used, number, size, locations of plantings, and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes); and**

**Applicant:** 1) **Barn #1** (Horse Barn): See Exhibit #4

2) **Barn #2** (Hay/Orchard Barn): See Exhibit #5. Note change in roofing material as described on page 14 of this document.

3) **House Addition:** See Exhibit #6.

**Staff:** Barn #1 is topographically not visible from Key Viewing Areas. Barn #2 and the dwelling are topographically visible from the Historic Highway (a Key Viewing Area). The property owners have provided the above required information (Exhibit A.8, A.9, A.24, A.31, A.35). Two exterior lights are proposed on Barn #2 or the Dwelling. An exterior light will be placed adjacent to the front door on the north side of the dwelling facing west and adjacent to the garage doors (Exhibit A.40). *This criterion has been met.*

3.10                   **(b) Elevation drawings showing the appearance of proposed building(s) when built and surrounding final ground grades, for all buildings over 400 square feet in area.**

**Applicant:** 1) **Barn #1** (Horse Barn): See exhibit #4.

2) **Barn #2** (Hay/Orchard Barn): See Exhibit #5. Note change in roofing material as described on page 14 of this document.

3) **House Addition:** See Exhibit #6.

**Staff:** Building elevations have been provided for the buildings (Exhibit A.9, A.24, A.31). *This criterion has been met.*

3.11                   **(6) New buildings or roads shall be sited on portions of the subject property which minimize visibility from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, sensitive wildlife sites or conflict with the protection of cultural resources. In such situations, development shall comply with this standard to the maximum extent practicable.**

**Applicant:** 1) **Barn #1** (Horse Barn): Located at base of slope providing 100% screening from KVA.

2) **Barn #2** (Hay/Orchard Barn): Located to replace existing barn. Proposed replacement structure will include: significant distance, appropriate vegetation, and visually subordinate materials to reduce visual impact to KVA.

3) **House Addition:** Located at existing house site. Designed to reduce grading. Addition will include: significant distance, appropriate vegetation, and visually subordinate materials to reduce visual impact to KVA.

**Staff:** The location of the additions is dictated by the placement of the existing dwelling. The existing dwelling is located near the northern property line. To minimize visibility from the

Historic Highway, the property owners have planted a large amount of vegetation to screen the building.

Barn #2 is located in the northwest corner of the property immediately adjacent to the barn it is replacing. The new barn will continue to be accessed by the existing driveway. The proposed location tucks the building between an existing fruit orchard and the front property line with existing vegetation. If Barn #2 was moved to the south below the orchard, the high spot in the terrain would not be as effective in screening the building from the Highway. The proposed location utilizes this high spot to screen most of the barn from the Highway to the west except after a quarter mile. The remaining visibility is screened from the Highway by existing and proposed vegetation. *This criterion has been met.*

- 3.12                    **(7) In siting new buildings and roads, use of existing topography and vegetation to screen such development from Key Viewing Areas shall be prioritized over other means of achieving visual subordination, such as planting of new vegetation or use of artificial berms to screen the development from Key Viewing Areas.**

**Applicant:** 1) **Barn #1** (Horse Barn): Located at base of slope providing 100% screening from KVA.

2) **Barn #2** (Hay/Orchard Barn): Located to replace existing barn. Proposed replacement structure will include: smaller size, significant distance, appropriate vegetation planted and maintained on property, and visually subordinate materials to prevent visual impact to KVA.

3) **House Addition:** Located at existing house site. Designed to reduce grading. Addition will include: significant distance, appropriate vegetation planted and maintained on property, and visually subordinate materials to prevent visual impact to KVA.

**Staff:** There is existing vegetation along the east & north property lines and along the driveway. The property owners will then supplement this existing vegetation by adding additional trees to screen the buildings from the Highway to the west (Exhibit A.35). In addition, the topography screens most of Barn #2's elevation the Historic Highway when traveling west. *This criterion has been met.*

- 3.13                    **(8) Driveways and buildings shall be designed and sited to minimize grading activities and visibility of cut banks and fill slopes from Key Viewing Areas.**

**Applicant:** 1) **Barn #1** (Horse Barn): Required post holes to be dug for pole barn construction. Utilized level area for building. Site is 100% screened from KVA by slope to the North.

2) **Barn #2** (Hay/Orchard Barn): Will require post holes to be dug for pole barn construction. Utilizing level area for building. Distance, vegetation and materials reduce visual impact to KVA.

3) **House Addition:** Will require foundation to be placed for additional construction. Utilizing level area for major portion and backfilling foundation for balance of construction. Distance, vegetation and materials reduce visual impact to KVA.

**Staff:** The location of Barn #2 and the additions to the dwelling minimize site grading by utilizing existing flat areas (Exhibit A.32 & A.35). The driveway used to serve the barn to be replaced will be used for Barn #2. Barn #2 will be placed on an existing flat area approximately 60 ft from the driveway.

The additions to the dwelling are located within the flat areas adjacent to the dwelling. The driveway will lead directly into the new attached garage on the west side of the house. The

driveway will not need to be lengthened to access the garage. *This criterion has been met.*

- 3.14           **(9) The exterior of buildings on lands seen from Key Viewing Areas shall be composed of nonreflective materials or materials with low reflectivity, unless the structure would be fully screened from all Key Viewing Areas by existing topographic features.**

**Applicant:** 1) **Barn #1** (Horse Barn): No visible windows.

2) **Barn #2** (Hay/Orchard Barn): No windows on KVA side.

3) **House Addition:** All windows facing the KVA fall under the definition of “screened glass” found in “Building in the Scenic Area” page 25, fig. 20. Additionally, the glass to be used will be within the recommended 11-15% visible light reflectivity rating.

**Staff:** Barn #2 will be sided with T1-11 siding and have a composition shingle roof. The garage doors will be constructed of wood. No windows are proposed on the west, north or east sides.

The dwelling and its additions will have beveled cedar siding and composition roofing. The house is approximately 400 ft from the Historic Highway (a Key Viewing Area). This would mean that the dwelling is located in the foreground of the Key Viewing Area. The site has significant vegetation between the proposed dwelling and the additions and the additions will face north and northeast. The property owners have indicated that they will use windows with a reflectivity rating between 11 to 15% which is acceptable in a middle-ground situation. With the proximity to the Historic Highway, and the direction of the east side addition facing northeast, it would be better if the windows had a reflectivity rating of 11% or less. A condition of approval has been included requiring that any new windows placed on the northern elevation have window glass with a reflectivity rating of 13% or less. *As conditioned, this criterion has been met.*

- 3.15           **(10) Exterior lighting shall be directed downward and sited, hooded and shielded such that it is not highly visible from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.**

**Applicant:** 1) **Barn #1** (Horse Barn): No exterior lighting is proposed.

2) **Barn #2** (Hay/Orchard Barn): See exhibit #5. Note change in roofing material as described on page 14 of this document. Two lights will be placed; one near a man door and one near an overhead door on the East side of the building. The new lights will be 100% screened by vegetation, as well as hooded with a downward glow.

3) **House Addition:** See Exhibit #6. One pre-existing outside light will remain on the North side of the House. Two additional lights will be placed on the West addition near each garage door. The new lights, as well as the existing light are 100% screened by vegetation, as well as hooded with a downward glow.

**Staff:** The property owners have marked where the proposed and existing lighting is located on the site plan (Exhibit A.40). A condition of approval has been included requiring that lighting details be submitted by the property owner prior to building plan check to verify that the proposed lights be made of shielded and hooded materials and directed downwards.

- 3.16           **(11) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of colors specified in the landscape setting for the subject property.**

**Applicant:** 3) **House Addition:** Dark brown stained cedar siding matching color C-12 on the color chart for dark earth tones in “Building in the Scenic Area” page 19.

**Staff:** The property owners have changed the color to B.15 on the color chart. The two additions are bigger than the existing dwelling. The dark brown is an appropriate color for the rural residential landscape setting. *This criterion has been met.*

- 3.17           **(12) Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual subordination requirements for lands seen from Key Viewing Areas. To be eligible for such exemption, the structure must be included in, or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regulations. Rehabilitation of or modifications to such historic structures shall be consistent with National Park Service regulations for historic structures.**

**Staff:** The existing dwelling and the barn to be removed are not historic structures protected or eligible for the National Register of Historic Places. *This criterion has been met.*

- 3.18           **(13) The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as seen from Key Viewing Areas. Variances may be granted if application of this standard would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use, and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the standard have been made.**
- (14) An alteration to a building built prior to November 17, 1986, which already protrudes above the skyline of a bluff, cliff or ridge as seen from a Key Viewing Areas, may itself protrude above the skyline if:**
- (a) The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration; and**
- (b) There is no practicable alternative means of altering the building without increasing the protrusion.**

**Staff:** While the property does slope from north to south, it does not contain a bluff, cliff or ridge line. The new barn & the additions to the dwelling will not create a situation where the building will extend into the skyline. *This criterion has been met.*

- 3.19           **(20) New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. A variance may be authorized if the property would be rendered unbuildable through the application of this standard. In determining the slope, the average percent slope of the proposed building site shall be utilized.**

**Applicant:** 1) **Barn #1** (Horse Barn): Level Ground

2) **Barn #2** (Hay/Orchard Barn): Level Ground

3) **House Addition:** Level Ground

**Staff:** The slopes on the property range from 5% to 16%. The area where Barn #2 and the dwelling additions are proposed has slopes of 5 to 7%. *This criterion has been met.*

- 3.20           **(21) All proposed structural development involving more than 100 cubic yards of grading on sites visible from Key Viewing Areas and which slope between 10 and 30 percent shall include submittal of a grading plan. This plan shall be**



reviewed by the Planning Director for compliance with Key Viewing Area policies. The grading plan shall include the following:

(a) A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail, with contour intervals of at least 5 feet, including:

1. Existing and proposed final grades;
2. Location of all areas to be graded, with cut banks and fill slopes delineated; and
3. Estimated dimensions of graded areas.

(b) A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:

1. Its purpose;
2. An estimate of the total volume of material to be moved;
3. The height of all cut banks and fill slopes;
4. Provisions to be used for compaction, drainage, and stabilization of graded areas (preparation of this information by a licensed engineer or engineering geologist is recommended);
5. A description of all plant materials used to revegetate exposed slopes and banks, including type of species, number of plants, size and location, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings; and
6. A description of any other interim or permanent erosion control measures to be utilized.

**Applicant:** Not applicable to this property.

**Staff:** The area of development for Barn #2 and the additions have slopes ranging from 5 to 7%. No grading plan is required for the development viewable from the Historic Highway.

- 3.21           **(26) Compliance with specific approval conditions to achieve visual subordination (such as landscaped screening), except mining and associated activities, shall occur within a period not to exceed 2 years after the date of development approval.**

**Applicant:** 1) **Barn #1** (Horse Barn): Not applicable. Color of structure is visibly subordinate. Distance from KVA and slope of hill create 100% screening of this structure.

2) **Barn #2** (Hay/Orchard Barn): Color of structure will be visibly subordinate. Existing 3' vegetation will grow at rate of 36 – 48" / year with a maximum height of 20+' providing screening.

3) **House Addition:** Color of structure is visibly subordinate. Existing 14' vegetation provides screening.

**Staff:** A condition of approval has been included that the proposed & conditioned plantings occur during this upcoming growing season to give the maximum amount of time for the trees to grow before the 2 years are over.

- 3.22           **(C) All Review Uses and Conditional Uses within the following landscape settings:**

### (3) Rural Residential

**(a) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this standard to the maximum extent practicable.**

**Applicant:** 1) **Barn #1** (Horse Barn): 24' x 60' x 14' (1440 sq ft); In the mid-size range for local area. (reference; response to MCC 38.7035(A)(2) including Table #2 page 8).

2) **Barn #2** (Hay/Orchard Barn): 48' x 48' x 27' (2304 sq. ft); Smaller than existing building and smaller than several local barns. Same size as building approved in T2-05-098. (reference; response to MCC 38.7035(A)(2) including Table #2 page 8).

3) **House Addition:** (5080 sq ft); Proposed addition to Single Family Residence would not make it the largest dwelling within the ¼-mile of the subject parcel and falls within the range of SFR's listed. (reference; response to MCC 38.7035(A)(2) including Table #1 page 7).

**Staff:** Based on the evidence in Finding 3.02, the proposed additions to the dwelling and Barn #1 are compatible with the general scale of development in the area. *This criterion has been met.*

- 3.23 **(b) Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.**

**Applicant:** No existing trees will be removed for any of the proposed construction.

**Staff:** Staff concurs. The site plan does not indicate that any existing trees will be removed to construct Barn #2 or the additions. *This criterion has been met.*

- 3.24 **(c) In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual subordination for new development and expansion of existing development:**

- 1. Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.**
- 2. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.**
- 3. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.**

**Applicant:** No existing trees will be removed for any of the proposed construction. Trees to be used for planting will be made up of, at least, 50% native species commonly found in the area. Cedar will be the primary species. Trees to be used for screening will be made up of, at least, 50% conifers. Cedar will be the primary species.

**Staff:** For Barn #2 and the additions to the dwelling, no existing trees will be removed. The trees to be planted on the applicant's site plan are Western Red Cedars, which are native to Oregon. The conditions requiring six additional trees also require the planting of Western Red Cedars or Douglas Firs. Both trees are conifers. *This criterion has been met.*

- 3.25 **4. Structures' exteriors shall be dark and either natural or earth-tone colors unless specifically exempted by MCC 38.7035 (B) (11) and (12).**

**Applicant:** 1) **Barn #1** (Horse Barn): Siding: Dark reddish/brown on rough sawn fir matching

color B-13 on the color chart for dark earth tones in “Building in the Scenic Area” page 19. Roof: Dark Grey/Brown architectural composition shingle.

2) **Barn #2** (Hay/Orchard Barn): Siding: Dark reddish/brown on rough sawn fir matching color B-13 on the color chart for dark earth tones in “Building in the Scenic Area” page 19. Roof: Dark Grey/Brown architectural composition shingle.

3) **House Addition:** Siding: Dark brown stained cedar matching color C-12 on the color chart for dark earth tones in “Building in the Scenic Area” page 19. Roof: Dark Grey/Brown architectural composition shingle.

**Staff:** Barn #1 is not visible from any Key Viewing Area. Barn #2 will be painted with a dark green (between A4 & A5 on the color chart). The dwelling will be stained dark brown (approximately B15 on the color chart). *This criterion has been met.*

- 3.26                    **(d) Compatible recreation uses include should be limited to small community park facilities, but occasional low-intensity resource-based recreation uses (such as small scenic overlooks) may be allowed.**

**Applicant:** No recreational use is proposed.

**Staff:** Staff concurs. *This criterion is not applicable.*

- 3.27                    **(D) All Review Uses and Conditional Uses within scenic travel corridors:**

**(1) For the purposes of implementing this section, the foreground of a Scenic Travel Corridor shall include those lands within one-quarter mile of the edge of pavement of the Historic Columbia River Highway and I– 84.**

**Applicant:** This property falls within one-quarter mile of the edge of pavement of the HCRH.

**Staff:** Staff concurs. The property touches the Historic Highway at the driveway entrance and the buildings will be constructed within 500 ft of the Highway. *The Scenic Travel Corridor review is applicable.*

- 3.28                    **(2) All new buildings and alterations to existing buildings, except in a GGRC, shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway. A variance to this setback requirement may be granted pursuant to MCC 38.0065. All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway, to the maximum extent practicable.**

**Applicant:** All of the proposed construction is outside the minimum 100 feet from the edge of the pavement of the HCRH. (See answer to 38.7035 B.2)

**Staff:** Barn #2 is at least 300 ft from the Historic Highway. The dwelling and its additions are at least 380 ft from the Highway. *This criterion has been met.*

- 3.29                    **(3) Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of pavement of a Scenic Travel Corridor roadway except in a GGRC, shall comply with subsection (2) above to the maximum extent practicable.**

**Applicant:** All of the proposed construction is outside the minimum 100 feet from the edge of the pavement of the HCRH. (See answer to 38.7035 B.2)

**Staff:** Staff concurs. *This criterion is not applicable.*

- 3.30                    **(4) All proposed vegetation management projects in public rights-of-way to**

**provide or improve views shall include the following:**

- (a) An evaluation of potential visual impacts of the proposed project as seen from any Key Viewing Area;**
- (b) An inventory of any rare plants, sensitive wildlife habitat, wetlands or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable standards to protect the resources.**

**Applicant:** Public rights-of-way are not impacted by proposed construction. (See above answer). None of the above resources are present on property.

**Staff:** No vegetation management projects along the Historic Highway are proposed. *This criterion has been met.*

**3.31 MCC 38.7045 GMA Cultural Resource Review Criteria**

**(A) Cultural Resource Reconnaissance Surveys**

**(1) A cultural reconnaissance survey shall be required for all proposed uses, except:**

- (a) The modification, expansion, replacement, or reconstruction of existing buildings and structures.**
- (b) Proposed uses that would not disturb the ground, including land divisions and lot-line adjustments; storage sheds that do not require a foundation; low-intensity recreation uses, such as fishing, hunting, and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.**
- (c) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved.**

**(3) A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or compromise features of the surrounding area that are important in defining the historic or architectural character of the buildings or structures that are 50 years old or older.**

**Applicant:** There are no known cultural resources on this site.

**Staff:** The Heritage Resources Program Manager of the US Forest Service has determined that neither a Cultural Resource Reconnaissance Survey nor a Historic Survey is required. *This criterion has been met.*

**3.32 MCC 38.7055 GMA Wetland Review Criteria**

**(A) The wetland review criteria shall be deemed satisfied if:**

**(1) The project site is not identified as a wetland on the National Wetlands Inventory (U.S. Fish and Wildlife Service, 1987);**

- (2) The soils of the project site are not identified by the Soil Survey of Multnomah County, Oregon (U.S.D.A. Soil Conservation Service, 1983) as hydric soils;
- (3) The project site is adjacent to the main stem of the Columbia River.
- (4) The project site is not within a wetland buffer zone; and
- (5) Wetlands are not identified on the project site during site review, or

**Applicant:** There are no wetland plants or areas on the property.

**Staff:** No wetlands have been identified for this site on the NWI. Soil maps indicate the soil on the site consist of Mershon silt loam which is not identified as hydric soil. The property is 0.67<sup>th</sup> of a mile (as the crow flies) from the Columbia River. No wetland buffers have been identified for the site. No wetlands have been identified on the project site during this review. *This criterion has been met.*

3.33 **MCC 38.7060 GMA Stream, Lake and Riparian Area Review Criteria**

**(A) The following uses are allowed in streams, ponds, lakes, and their buffer zones without Site Review, if they:**

**Staff:** No creek, stream, lake or riparian areas or their buffers exist on the subject site. *This criterion has been met.*

3.34 **MCC 38.7065 GMA Wildlife Review Criteria**

**Wildlife Habitat Site Review shall be required for any project within 1,000 feet of sensitive wildlife areas and sensitive wildlife sites (i.e., sites used by sensitive wildlife species).**

**MCC 38.7070 GMA Rare Plant Review Criteria**

**Rare Plant Site Review shall be required for any project within 1,000 feet of endemic plants and sensitive plant species.**

**Staff:** No sensitive wildlife sites or sensitive plant species have been identified on the site or within 1000 feet of the property. *These criteria have been met.*

3.35 **MCC 38.7080 GMA Recreation Resource Review Criteria**

**The following uses are allowed, subject to compliance with MCC 38.7080 (E) and (F).**

**Staff:** No recreation uses are proposed as part of this project. No recreation sites exist nearby. *This criterion has been met.*

4.00 ***Minor Variance Criteria***

4.01 **MCC 38.7600 Variance Approval Criteria**

**(A) The Approval Authority may permit and authorize a variance from the dimensional requirements of 38.2060(C), 38.2260(C), 38.2460(E), 38.2660(C), 38.2860(C), 38.3060(C), and 38.3260(C) only when there are practical difficulties in the application of the Chapter. A Major Variance shall be granted only when all of the following criteria are met. A Minor Variance shall meet criteria (3) and (4).**

**(3) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or adversely affects the appropriate development of adjoining properties.**

**(4) The granting of the variance will not adversely affect the realization of the Management Plan nor will it establish a use which is not listed in the underlying zone.**

**Applicant:** For the proposed agricultural building in the NW corner of the property (Barn #2 on the application), I am requesting a minor variance due to practical difficulty (note; practical difficulty is not a requirement of minor variance). The setback requirement of 30' would require significant excavation and retaining walls for the South side of the structure as well as relocation of an established orchard. If constructed with a 22.5' setback, the existing topography is sufficient to support the structure without significant modification.

- The proposed building will replace the existing building, which is in severe disrepair.
- The proposed replacement building will be 2304 sq. ft., that is 48 sq. ft. less than the current structure, which is 2352 sq. ft.

This request does not change the usage for the property, it does not have any detrimental effect on the public welfare or the development of adjoining properties, it is not injurious to property in the vicinity, nor does it affect the Management Plan or establish a precedent for unzoned use.

**Staff:** Barn #2 is proposed to be 22.6 ft from the front property line, which is a 25% reduction in the front yard requirement. The yard requirement under MCC 38.3060(C) specifies a 30 ft setback from the front property line. The proposed variance qualifies as a Minor Variance pursuant to MCC 38.7605(B). The subject site has existing improvements, topography and uses which limit the placement of the barn. As shown in the property owner's exhibit A.32, Barn #2 is located between the existing wellhouse and the orchard and the front property line. This location is relatively flat and limits the amount of ground disturbance necessary to construct the barn. If the barn was located further south into the property, it would be shifted to a portion of the property where significant grading would need to occur to construct the barn. In addition, it would cut into the area utilized for pasture for the family's pet horses. As such, a practical difficulty exists on the subject site which limits the placement of the structure in compliance with the front yard requirement.

The property owners will obtain building permits for the construction of Barn #2. The building permits will ensure that the structure will be constructed in a safe manner to support the snow load and winds of the Gorge. The obtaining of a building permit will protect adjacent properties from damage which could occur if the building cannot handle the environment in which it is constructed in. The location of the building 22.5 ft from the front property line will not require additional building setback on adjacent properties due to building code requirements.

The proposed location for Barn #2 meets the Scenic code criteria for visual subordination as stated above in Findings 3.06 through 3.08. The proposed reduction in the front yard setback still allows for the planting of screening vegetation between the building and the front property line. No cultural, recreational or wildlife resources will be affected by the construction of Barn #2 at the proposed location. *These criteria have been met.*

**4.02 MCC 38.7605 Variance Classifications**

**(B) A Minor Variance is one that is within 25 percent of an applicable dimensional requirement. The Approval Authority is authorized to grant a Minor Variance in accordance with the following conditions:**

**(1) Application shall be accompanied by the written consent of the owner or**

**owners of each lot adjoining and across any street from the subject property;**

**(2) The form to be presented to each owner must include the zoning requirement, the amount of relief requested by the applicant and a declaration by the owner that the granting of the variance shall not harm the value and livability of his property.**

**Staff:** The reduction of the front yard from 30 ft to 22.5 ft is a reduction of 25%. This qualifies as a Minor Variance. The property owners have provided the signatures of all adjacent property owners (Exhibit A.20). *These criteria have been met.*

## 5.00 **Conclusion**

Based on the findings and other information provided above, the property owners have carried the burden necessary for approval a NSA Site Review for the construction of an addition to the existing single family dwelling, replacement of an existing accessory structure and an after-the fact approval for a second accessory structure in the GGR-5 zoning district. This approval is subject to the conditions of approval established in this report.

## 6.00 **Exhibits**

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Comments Received

‘D’ Administration & Procedure

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	NSA Application Form	6/8/04
A.2	1	Site Plan	6/8/04
A.3	21	Narrative Statements	12/6/04
A.4	3	Statutory Warranty Deed	12/6/04
A.5	1	Exhibit 2 – Survey of Various Lots in Area	12/6/04
A.6	1	Ortho Photograph Labeling Existing Buildings and Septic System on the Site – Exhibit 3	12/6/04
A.7	1	Ortho Photograph with Contour Information Shown – Exhibit 4	12/6/04
A.8	1	Materials and Color Board – Exhibit #5	12/6/04
A.9	1	Elevations for Existing 24 ft by 60 ft Accessory Structure to house Horse Pets (Barn #1) – Exhibit 6	12/6/04
A.10	1	Drawing showing the footprint of the 24 ft by 60 ft barn, gravel road leading to structure and level area around the footprint of the barn	12/6/04
A.11	2	Elevations for Proposed 48 ft by 104 ft Accessory Structure – Exhibit 7	12/6/04
A.12	1	Grading Plan for 48 ft by 100 ft Accessory Structure	12/6/04
A.13	4	Elevations for the Proposed 2-Story Addition to	12/6/04

		Existing Single Family Dwelling – Exhibit 8	
A.14	1	Grading Plan for Addition to Single Family Dwelling	12/6/04
A.15	1	Clarification of Residential Use of Property	2/9/05
A.16	1	Request from Property Owner Requesting Stopping the Clock on the Application	2/25/07
A.17	1	NSA Application Form for Minor Variance Application – T2-07-005	1/12/07
A.18	1	Letter from Property Owners Discussing Modifications to Application T2-04-052	1/12/07
A.19	1	Minor Variance Information	1/12/07
A.20	2	Property Owner Consent of Variance Request	1/12/07
A.21	17	Revised Narrative	1/12/07
A.22	1	Existing House Floor Plan	1/12/07
A.23	1	House Addition Floor Plan	1/12/07
A.24	1	House Addition Southern & Northern Elevations	1/12/07
A.25	1	House Addition Ridgeline	1/12/07
A.26	1	Barn #1 Space Allocation	1/12/07
A.27	33	Copy of Decision, T2-05-120 calling attention to approval of 48 ft by 48 ft accessory structure	1/12/07
A.28	24	Copy of Decision, T2-06-058 calling attention to Comparison Finding, Usable Space Finding and Conclusion by Staff	1/12/07
A.29	24	Copy of Decision, T2-05-095 calling attention to Definition of “Nearby Development” and Interpretation of Generally Consistent Standard	1/12/07
A.30	43	Copy of Decision, T2-04-007 calling attention to Generally Consistent and Usable Space Interpretation	1/12/07
A.31	4	Barn #2 Elevations 48 ft wide by 48 ft long by 27 ft high	1/12/07
A.32	1	Cross-Section Looking East at Proposed Barn #2 Site	7/11/07
A.33	2	SFD, Barn & Outbuilding Sizes on Adjacent Properties	7/11/07
A.34	1	Minor Variance Request (T2-07-005)	7/11/07
A.35	1	Revised Site Plan	7/11/07
A.36	13	Property Pictures for Brill Application	7/11/07



A.37	1	Email from Property Owner Clarifying Window Size and Colors	10/22/07
A.38	2	Email from Property Owner Regarding 1525 NE Crestview Lane	10/28/07
A.39	2	Email from Property Owner Regarding 710 NE 365 <sup>th</sup>	10/29/07
A.40	1	Site Plan with Proposed Lighting	
<b>‘B’</b>		<b>Staff Exhibits</b>	<b>Date of Document</b>
B.1	1	1977 Air Photograph	1977
B.2	1	1986 Air Photograph	1986
B.3	1	1998 Air Photograph	1998
B.4	1	2002 Air Photograph	2002
B.5	2	A&T Ownership Information for 1N4E35BA - 01800	1/26/05
B.6	1	1986 Exempt Minor Partition	1986
B.7	193	House Size Information	10/19/07 & 10/25/07
<b>‘C’</b>		<b>Comments Received</b>	<b>Date of Document</b>
C.1	2	USDA Forest Service Cultural Resources Survey Determination	6/23/04
C.2	1	Columbia River Gorge Commission Completeness Review Comments	6/28/04
C.3	1	Comments from ODOT Hist. Columbia River Highway Advisory Committee	1/25/05
C.4	6	Friends of the Columbia River Gorge Comments	1/26/05
C.5	3	Columbia River Gorge Commission Comments	1/27/05
C.6	2	USDA Forest Service Cultural Resources Survey Determination	1/25/07
C.7	1	Oregon Fish & Wildlife Comments	9/12/07
C.8	7	Friends of the Columbia Gorge Comments	9/12/07
<b>‘D’</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
D.1	19	Incomplete Letter for T2-04-052	7/7/04
D.2	1	Response Letter for T2-04-052	7/9/04
D.3	1	Complete Letter for T2-04-052 – Complete 12/21/04	1/10/05

		- Day 1	
D.4	40	Opportunity to Comment for T2-04-052	1/12/05
D.5	3	Incomplete Letter for T2-07-005	2/7/07
D.6	1	Response Letter for T2-07-005	3/6/07
D.7	1	Complete Letter for T2-07-005 – Complete 7/11/07 - Day 1	8/1/07
D.8	2	Opportunity to Comment for T2-07-005	8/29/07
D.9	34	Administrative Decision	11/2/07